



Commonwealth of Kentucky

MASTER AGREEMENT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: FLEET SECURITY PARTITION AND SCREEN - ADAMSON(RFB 758 1*125)		
Doc ID No: MA 758 1000000244 1		Proc Folder: 1539403
Procurement Type: Standard Goods		
Effective Date: 2009-10-26	Expiration Date: 2010-10-25	Not To Exceed Amount
Administered By: Michael Gustafson		Cited Authority: FAP111-35-00-G
Telephone: 502-564-5945		Issued By: Michael Gustafson
V E N D O R	ADAMSON INDUSTRIES 45 RESEARCH DR. HAVERHILL MA 01832 US	

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	FLEET SECURITY PARTITIONS, SCREENS, ORGANIZERS, RACKS, TRAYS	14	0.00		0.00000	0.00	0.00

Extended Description
PLEASE REFER TO SECTION 8 OF THE MASTER AGREEMENT'S TERMS AND CONDITIONS SECTION FOR COMPLETE DETAILS ON THE SPECIFICATIONS AND REQUIREMENTS FOR THIS ITEMS ON THIS MASTER AGREEMENT.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 2 of 34
------------	-------------------------	--	-----------------

MA 758 1000000244
FLEET VEHICLE PARTITIONS, SCREENS, ORGANIZERS, AND TRAYS
REQUEST FOR BID (RFB) / SOLICITATION RFB 758 1000000125
PRO-GARD PRODUCTS

VENDOR CONTACT INFORMATION:

MS. KIM CONTARINO

ADAMSON INDUSTRIES CORP.

45 Research Drive

Haverhill, MA 018322

Phone #: (978) 681-0370

Fax #: (978) 975-7168

Email: scontarino@adamsonindustries.com

COMMONWEALTH CONTACT INFORMATION:

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TERMS AND CONDITIONS
MASTER AGREEMENT

Section 1

Scope of Master Agreement

This Master Agreement is for the Vendor to provide **FLEET VEHICLE SECURITY PARTITIONS & SCREENS, ORGANIZERS, EQUIPMENT TRAYS, AND RACKS**, and similar equipment to the Division of Fleet Management as well as to other State

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 3 of 34
------------	--------------------------------	---	-------------------------

Agencies and Local Governments (as may be needed). Additional Specification information as to the **FLEET VEHICLE SECURITY PARTITIONS & SCREENS, ORGANIZERS, EQUIPMENT TRAYS, AND RACKS** is available in **Section 8 - Specifications**.

The types of Fleet Vehicle Security Partitions & Screens, Organizers, Equipment Trays, and Racks shall include, but is not limited to:

Vehicle Security Partitions
Vehicle Security Screens
Prisoner Transport Systems
Armor and Door Panels
Skid Plates
Laptop Mounts
Radio Mounts
Vehicle Organizers
Duty Gear Organizers
Weapons Mounts
Trunk Trays
Push Bumpers

Manufacturers may include, but are not limited to:

Patriot Products
Setina
Troy Products

Section 2

Purpose

The purpose of this Master Agreement is to request that the Vendor provide these items under Master Agreement to the Commonwealth of Kentucky. This Master Agreement also provides the minimum specifications and requirements for the purchase of the **FLEET VEHICLE SECURITY PARTITIONS & SCREENS, ORGANIZERS, EQUIPMENT TRAYS, AND RACKS** that meets the needs and desires of the Agency. This Master Agreement establishes essential criteria for the design, performance, capabilities, and appearance of the product or equipment.

Section 3

Initial Master Agreement Period

The Office of Procurement Services (OPS) issues this Master Agreement (MA) for the

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 4 of 34
------------	-------------------------	--	-----------------

State of Kentucky. This Master Agreement shall be for a period of one (1) year from the date of Master Agreement award or the effective date of the Master Agreement.

Section 4 Renewal Clause

This Master Agreement may be renewed at the completion of the initial contract period for four (4) additional one (1) year periods. This renewal shall have the written approval of the Vendor and the Office of Procurement Services (OPS).

Section 5 Renewal Clause - Optional Renewal Period

As this Master Agreement provides for an optional renewal period, the Commonwealth of Kentucky reserves the right to renegotiate any Terms and / or Conditions as may be necessary to meet the requirements for the extended period. The Vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the Master Agreement in an extended period.

Section 6 Agency and Political Subdivision's Use of the Master Agreement

This Master Agreement shall be for use by the Commonwealth of Kentucky State Agencies. Under Kentucky Statutes, provisions are made to allow for use of this Master Agreement by all State Agencies, Local Governments (all Cities and Counties), local School Districts, and Universities.

By responding to Request For Bid (RFB) 758 1000000125 the Vendor agrees beforehand to offer their services, products, and pricing to other authorized users. These entities may participate in All-State Agency Master Agreements to the same extent as Agencies of the Commonwealth.

Section 7 EEO Requirements (EEO Forms are not required at this time)

The EEO reporting process has been revised to address statutory revisions that took effect June 26, 2007 (reference House Bill (HB) 334.) The revisions include the following:

1) increased the \$250,000 contract exemption threshold to \$500,000 (as such, only

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 5 of 34
------------	--------------------------------	---	-------------------------

Master Agreements or Contracts valued at more than \$500,000 will be subject to contract compliance reviews).

- 2) reduced EEO reporting requirements from twice to **once yearly**.
- 3) **eliminated** the requirement for Vendors to provide detailed information about **each employee** (specifically, the Employee Data Sheet will no longer be a required form).
- 4) clarified that the availability and utilization of female employees will also be used to determine compliance
- 5) clarified that the equal employment provisions may be met, in part, by subcontracting to firms owned by women
- 6) Vendor should continue to send copies of the EEO forms to the Finance and Administration Cabinet's (FAC) Office of EEO and Contract Compliance (EEO / CC) for review and approval. No award will become effective until all forms are satisfactorily submitted and EEO / CC has certified compliance.
- 7) The EEO forms, which must be referenced in Solicitations issued on or after June 26, 2007, are: EEO-1: Employer Information Report; Affidavit of Intent to Comply; and Sub-Vendor Report. **Further, the EEO forms and Bid package letter should be posted on the Web effective June 26, 2007.**
- 8) Updated Solicitation Language - Changes in EEO reporting requirements also affect the language currently included in Solicitations, etc. **This language must, at a minimum, advise Vendors of the following requirements: Failure to comply with the Act may result in non-award, withdrawal of award, cessation of contract payments, etc.**
- 9) Vendors / Vendors must submit the following documents in accordance with the requirements of the Solicitation - EEO-1: Employer Information Report, Affidavit of Intent to Comply and Sub-Vendor Report **OR a copy of the current Kentucky EEO Approval Letter issued by the Finance and Administration Cabinet, Office of EEO and Contract Compliance.**
- 10) Vendors may obtain copies of the required EEO documents from the Finance and Administration Cabinet's e-Procurement Web page under Standard Attachments and General Terms at the following site: <https://eprocurement.ky.gov/attachments.htm>.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 6 of 34
------------	--------------------------------	---	-------------------------

11) Vendors must advise each sub-Vendor with a subcontract of more than \$500,000 - of the sub-Vendor's obligation to comply with the Kentucky EEO Act. Further, Vendors are responsible for compiling EEO documentation from their sub-Vendors and submitting the documentation to the Finance and Administration Cabinet, Office of EEO and Contract Compliance (EEO/CC). (Note: contracts below the second tier are exempt from EEO reporting.)

12) Failure to complete, sign and submit all required documents will delay the award process as incomplete submissions will not be processed. **Further, alternate versions of the required documents will not be accepted or processed.**

13) Pursuant to KRS 45.610 (2), the Finance and Administration Cabinet, Office of EEO and Contract Compliance reserves the right to request additional information and / or documentation and to conduct on-site monitoring reviews of project sites and / or business facilities at any point for the duration of any Contract which exceeds \$500,000 to ascertain compliance with the Act and such rules, regulations and orders issued pursuant thereto.

If the Vendor is exempt from submitting the EEO Forms, the Vendor must state such in its transmittal letter (Section 50.150 of this RFP). Exemption from EEO Form submission, under KRS 45.590, does not obviate any other requirements of KRS 45.570.

All questions regarding **ONLY the EEO forms or contract compliance issues** must be directed to the Finance and Administration Cabinet, Office of EEO and Contract Compliance via e-mail: Finance.ContractCompliance@ky.gov or via telephone at (502) 564-2874 or by fax at (502) 564-1055.

Section 8

Equipment / Product Specifications and Requirements:

SUMMARY -

In this Master Agreement, there are no **FLEET VEHICLE SECURITY PARTITIONS & SCREENS, ORGANIZERS, EQUIPMENT TRAYS, AND RACKS** equipment model specifications per se. What the Commonwealth is attempting is to obtain a percentage discount off of the Manufacturer's complete (current and future models) equipment product line to include those applications listed under Section 1 above.

The Commonwealth desires to award the Fleet Vehicle Security Partitions & S

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 7 of 34
------------	--------------------------------	---	-------------------------

creens, Organizers, Equipment Trays, and Racks Manufacturers with the Master Agreements. Their authorized Equipment Dealers may also be added to the Master Agreement as Secondary Authorized Vendors. Should a Fleet Vehicle Security Partitions & Screens, Organizers, Equipment Trays, and Racks Equipment Manufacturer decide not to Bid on this Request For Bid (RFB) / Solicitation, then an Equipment Dealer can bid for that Equipment Manufacturer. An Equipment Manufacturer may delegate a local Equipment Dealer to coordinate all Equipment sales / deliveries should they elect not to submit a Bid Response. It is much more efficient and effective to make the award out to the Fleet Vehicle Security Partitions & Screens, Organizers, Equipment Trays, and Racks Manufacturer with their Authorized Secondary Vendor Dealers included.

1.) GENERAL SPECIFICATIONS FOR FLEET VEHICLE SECURITY PARTITIONS & SCREENS, ORGANIZERS, EQUIPMENT TRAYS, AND RACKS:

This Master Agreement includes the following general types of **Fleet Vehicle Security Partitions & Screens, Organizers, Equipment Trays, and Rack equipment types but is not limited to these:**

All Equipment model Options, Attachments, Accessories, Repair Parts, and Training are also eligible to be on this Master Agreement.

Vehicle Security Partitions
Vehicle Security Screens
Prisoner Transport Systems
Armor and Door Panels
Skid Plates
Laptop Mounts
Radio Mounts
Vehicle Organizers
Duty Gear Organizers
Weapons Mounts
Trunk Trays
Push Bumpers

2.) A QUALIFIED MANUFACTURER SHALL MEET THE FOLLOWING CRITERIA:

For the terms of this Master Agreement, the following definition of what the

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 8 of 34
------------	--------------------------------	---	-------------------------

Commonwealth considers a ‘Qualified Manufacturer’ shall apply -

A) ALL Products shall meet all Industry Standards as well as all other pertinent equipment and professional engineering standards, any Federal and / or State standards, or Federal OSHA regulations that may apply.

B) Since the intent of this Master Agreement award is to award it to the Manufacturer / Distributor / Dealer, the Commonwealth will not award a Master Agreement for, or purchase, those items that may be of questionable quality, product design or integrity, or with an unknown or unsatisfactory safety record.

C) This Master Agreement should in no way represent an ‘approved by or recommended by’ the Commonwealth of Kentucky, the Finance and Administration Cabinet’s (FAC) Division of Fleet Management, the Kentucky Transportation Cabinet’s (KYTC) Division of Equipment, the Kentucky State Police (KSP) or any other primary user of these equipment types. Manufacturers awarded state-wide Master Agreements are expected to be good, reputable Vendors with quality products.

3. AUTHORIZED (SECONDARY) EQUIPMENT LISTING -

The importance of the Authorized (Secondary) Equipment Dealer Listing is that **ONLY** those Equipment Dealers authorized by the Master Agreement holder are allowed to participate in this Master Agreement (MA). In some cases, the Master Agreement shall be with the Manufacturer and not necessarily with the individual Equipment Distributor / Dealer’s location. Manufacturers must be able to guarantee that all authorized Equipment Dealer locations will honor the State contract discounted pricing for the contracted items. The Master Agreement is awarded to the Manufacturer / Distributor / Dealer with the understanding that the local Equipment Dealers are going to be involved quite heavily in the day-to-day activities. By having the Equipment Dealers loaded into our system, it allows our Agencies to make payments to the local Equipment Dealers as necessary.

The local Equipment Dealer (Secondary Vendor) **MUST** be:

- A) on the Authorized Dealer List provided by the Manufacturer / Distributor to the Commonwealth Buyer,
- B) registered with the Finance and Administration Cabinet (FAC) prior to the Buyer

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 9 of 34
------------	--------------------------------	---	-------------------------------

being able to 'pull' them from this database into the actual Master Agreement.

C) loaded into the Master Agreement's Vendor database (by the Buyer). This is how the Dealer is then allowed to be paid.

Required Authorized Dealer information needed in Excel format by the Buyer is:

Use the following for Column Headings:

Company Name

Company Street Address

City

State

Zip

Phone #

Fax #

Point of Contact's Name

Point of Contact's Email address

FEIN #

Vendor Customer # (this will be either a VC or a VS followed by a 10-digit number.)

Vendor's website (if available)

Future plans include posting this Excel spreadsheet with all of the Authorized Secondary Equipment Dealer information onto the OPS website so that State Agency and Local Government personnel may access it to see which Equipment Dealers are on which Master Agreements and which is located closest to them. This will aid them in selecting an Equipment Dealer to contact and / or order from.

Should these Equipment Dealers not be entered into the system, payments cannot be authorized. The process by which the Buyer loads them into the database is to take them off of the Vendor's list and add them individually by using their Vendor Customer # (either a VC and 10 digit number or a VS and 10 digit number). Their FEIN number may also be used to identify and load them into the Master Agreement. If the Vendor provides the Buyer with 15 Equipment Dealers on their list, but the Buyer can only locate 12 of them in the database, the other 3 'floaters' will not be able to be added, or more importantly, be able to participate in the Master Agreement.

Equipment Dealers may use the FAC website at <http://eprocurement.ky.gov> to register with the State or to update their registration. Directions to the FAC website are:

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 10 of 34
------------	--------------------------------	---	--------------------------------

Go to <http://eprocurement.ky.gov>

Then click on “Register” and it will allow you to register online and provide your company information. It will also allow you to enter an email address and Commodity Code choices so our email system will email you when a future Bid is released for some Commodity that you are interested in.

You may update your account by typing in your Login and Password should anything (area code, address, contact email, etc.) need updating.

If assistance is needed, contact the [Customer Resource Center](mailto:Finance.CRCGroup@mail.state.ky.us) by email at Finance.CRCGroup@mail.state.ky.us or by phone (502) 564-9641 or toll-free (877) 973-HELP. The Help Desk is open from 8:00 AM until 5:00 PM EST Monday through Friday. This site registration is different than when the Vendor registered with the Kentucky Secretary of State’s office to do business in the State. These are two different registrations. Theirs is to do business; OPS is to place orders and make payments and notify them of upcoming Solicitations, etc.

4. LINE ITEM CATALOG -

This Excel spreadsheet will contain your complete product line or those items that you want to include (or those that fall into the scope of this Master Agreement.) This shall be provided on a CD and it may also be emailed to the Buyer at the time the Master Agreement is awarded / updated.

The FAC eProcurement Catalog website is at <http://eprocurement.ky.gov>. The Excel spreadsheet template to use is as follows:

- A) Vendor Customer number - please provide it if you have it.
- B) Supplier Part Number - limited to 32 characters and spaces. **Part numbers may not be duplicated.** Please add a ‘-1’ or ‘-A’ to differentiate your duplicated Line Items.
- C) Supplier Name - (your Company name) (limited to 25 characters and spaces.) The Buyer will pull this from the database when the Master Agreements are prepared.
- D) Manufacturer Name (name of equipment Manufacturer).

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 11 of 34
------------	--------------------------------	---	-------------------------

E) Manufacturer Part Number - Manufacturer's Part Number.

F) Commodity Code - (The Buyer will provide the 5-digit Commodity Codes below that may be most useful.)

05569	Automotive Organizers (Cup Holders, Tissue Dispenser, etc.)
05574	Racks, Vehicle (Gun, Hat, etc.)
68042	Curtains, Security; Vehicle Security Partitions

G) Description - limited to 60 characters & spaces.

H) Extended Description - limited to 3,900 characters & spaces. It is most beneficial to have as much pertinent data in the Extended Description field as possible to aid an Agency in doing a search to locate those particular items they are looking for. This would include Manufacturer's name, equipment model name / number, dimensions, weight, vehicle models that it is designed for, etc. Wording similar to the following may be entered at the end of the equipment specification information:

ALL MODELS OF (MANUFACTURER'S NAME) VEHICLE PARTITIONS, ATTACHMENTS, OPTIONS, ACCESSORIES, REPAIR PARTS, AND TRAINING. INCLUDES ALL CURRENT AND FUTURE MODELS THAT FALL INTO THIS MODEL AND PRICE CATEGORY. CONTRACT PRICE IS DISCOUNTED XX% FROM LIST PRICE. FREIGHT AND SET-UP MAY APPLY TO CERTAIN MODELS. CONTACT THE MANUFACTURER / VENDOR FOR ANY FURTHER INCREASED QUANTITY DISCOUNTING SHOULD IT BE AVAILABLE FOR LARGER ORDERS. MANUFACTURER'S WEBSITE - www.vehiclepartitonmfr.com

I) Unit of Measure - most likely will be EACH.

J) List Price - Vendor's can enter the percentage discount in this column for now, (i.e. 10%). The Buyer will change it to reflect \$00.001 which will appear as \$00.00 (due to rounding) in our system and on our website catalog. Actual pricing will be determined at time of ordering when the item is specified and then the percentage discount is applied to the List Price to arrive at the State's net price.

K) Delivery Days - enter a time, **under normal circumstances**, that delivery can

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 12 of 34
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be made from the Dealer / Manufacturer's location. Please refer to Section 9 below for more information on Delivery times.

5. PAYMENT BY INVOICE OR PROCARD -

Vendor Acceptance of State ProCard for Payment, the Commonwealth **REQUESTS that Manufacturer's / Equipment Dealers accept the State's ProCard** (State version of a business credit card) in instances where the purchased amount is within the Agency's authorized purchasing limits. State Agencies have different levels of ProCard purchasing authority. The ProCard may be set up with three types of limits:

- 1) single purchase limit
- 2) maximum number of charges per month (or per day) limit, and
- 3) monthly total dollar limit.

The card's magnetic strip is coded with the Agency's appropriate limit(s). Should the instance occur where a card is used to purchase an amount in excess of these limits, the Commonwealth will make payment and address the issue of exceeding the limit separately within the Agency. **The Vendor will be paid.** The Vendor does need to verify what level is authorized. This is accomplished by swiping the ProCard through the charge machine and receiving a purchase authorization (similar to using a personal credit card.) If an approval authorization is not received, do not complete the purchase transaction.

It is felt that most Equipment Distributor / Dealer locations operate with a credit / debit card function as part of their day-to-day business. Should an Equipment Dealer not have the capacity for credit card transactions (either just doesn't use it or it is down for that day(s)), then the Equipment Dealer / Distributor / Manufacturer will have to process payment through the invoice / check payment route.

6. EARLY PAYMENT DISCOUNTS:

The Manufacturer / Distributor / Dealer should state if they will offer an early payment option (i.e. ½% if paid within 10 calendar days).

7. PRICING:

Due to the vast array of Equipment models and applications, it is requested that the Manufacturer / Distributor / Dealer provide their percentage discount for pricing rather than any actual dollar amounts. Refer to paragraph 4 - Line Item Catalog, Item J, above for more information regarding this.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 13 of 34
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8. DISTRIBUTION OF LITERATURE:

Upon request, the Vendor shall furnish State agencies and other public offices with descriptive literature, current website addresses for current product lines and specifications, and also for service information for Line Items awarded. The Vendor shall also be fully responsible for making distribution of catalogs and price lists to the State Agencies WHEN REQUESTED BY THAT AGENCY. IT IS HIGHLY RECOMMENDED THAT INFORMATION BE MADE AVAILABLE ON THE MANUFACTURER'S WEBSITE TO MAINTAIN THE MOST CURRENT DATA AND MODELS. This will also reduce any unnecessary copying and mailing costs.

9. DELIVERY TIME:

As to Delivery time, **Manufacturers should provide their BEST ESTIMATE of future delivery days** (this is what is in Column K - Delivery Days in the Catalog Excel spreadsheet portion above.) The thirty (30) calendar days mentioned in Section 9 below is more to provide an **ESTIMATE** of Delivery time to the ordering Agency. It is understood that there are seasonal and economic factors that can impact Delivery times. What the Commonwealth is trying to avoid is that a Dealer would promise delivery of an item in 30 calendar days, knowing full well that it won't be delivered for 60 - 90 calendar days. These instances are where the 1% penalty is imposed (in some cases.) Refer to Section 9 below for more information. The Commonwealth is agreeable to working these longer-than-normal-delivery issues, once notified, as they arise.

10. BIDDER INFORMATION SHEET (SEE SECTION 23)

Deleted from the Master Agreement Terms section.

11. VENDOR HOTLINE:

Each Manufacturer / Distributor / Dealer shall include a toll free hotline telephone number so that Commonwealth representatives may be able to contact the Manufacturer / Distributor / Dealer when there is a potential issue or concern. In many cases the local Equipment Distributor / Dealer should be capable of solving the situation.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 14 of 34
------------	-------------------------	--	------------------

Each Manufacturer / Distributor / Dealer shall have a program in place to assist the Commonwealth in any current or future equipment or safety related recall or issues due to design, warranty, performance, or other factor. The Commonwealth shall be assured that any item involved in one of these recalls shall be processed through the appropriate recall process AT ANY of the participating Equipment Distributor / Dealer locations.

12. THE FOLLOWING QUESTION AND RESPONSE INFORMATION WAS ISSUED DURING PREVIOUS REQUEST FOR BIDS AND IS STILL PERTINENT INFORMATION AND APPLIES TO THIS MASTER AGREEMENT AS WELL:

VENDOR QUESTION #1:

The **STATE Agency's** ProCard is a PNC Bank Visa card. For clarification, **State Agencies use the ProCard.** Local Governments, Schools, Universities may use their own version of a ProCard or a business credit card. The Commonwealth is unaware of what each of them maintains.

COMMONWEALTH RESPONSE #1:

To the best of the Commonwealth's knowledge Visa does charge the Vendor their normal administrative fee for use of the card. The exact percentage is not known.

VENDOR QUESTION #2:

Will the Government Agency make the majority of their major purchases with the ProCard?

COMMONWEALTH RESPONSE #2:

This will depend on what their preset ProCard authorized limit is. Payment for equipment may either be by invoice (for larger dollar amount purchases) or by the State ProCard (if within the Agency's authorized limits.)

The ProCard is not necessarily required although many Agencies will want to use it for lower dollar items. For one Agency, they may be able to purchase \$18,000 worth of equipment on their ProCard, while another Agency may be able to only purchase an \$ 800 item. It is anticipated that the lower dollar items may be purchased with the ProCard.

VENDOR QUESTION #3:

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 15 of 34
------------	--------------------------------	---	-------------------------

We would like to conduct business with the state on a Distributor level with the support of our equipment Dealer network. The State of Kentucky is shared between two Distributors. We are working on this bid together with one common structure in mind. However, our areas of responsibility are defined by County. Could we identify in the Master Agreement the Counties that will be serviced by which Distributor?

COMMONWEALTH RESPONSE #3:

Yes. Prior to award of the Master Agreement, the Manufacturer / Distributor can provide the Commonwealth Buyer with the Excel listing of all Dealer locations, each Dealer will be added as an Authorized Vendor to their Master Agreement. A statement can be added to the end of the Extended Description information to the Master Agreement as to which Dealers cover which Counties.

VENDOR QUESTION #4:

In Section 22 of (of a previously issued) Solicitation it states that a payment may be made to the Manufacturer or the Dealer. If we are awarded the Master Agreement, as the Manufacturer, we always want the payment to go to us, not the Dealer. Is that any problem?

COMMONWEALTH RESPONSE #4:

Payments may be made directly to the Manufacturer or the Equipment Dealer. Payment to the Manufacturer is not a problem. Payment can be made to either the Equipment Dealer or to the Manufacturer, whichever is appropriate for that Manufacturer's products. This can be set up in our database when the Master Agreement is established.

VENDOR QUESTION #5:

What is the Commonwealth's version of a Manufacturer catalog?

COMMONWEALTH RESPONSE #5:

By Manufacturer's catalog we are looking for a booklet or pamphlet that contains information as to part number, model number, descriptive information, equipment pictures, specifications, technical data, applications, website information, etc. Each Manufacturer's catalog may be unique as to layout and content.

VENDOR QUESTION #6:

How many Equipment Dealers must a Manufacturer have in the State in order to be

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 16 of 34
------------	-------------------------	--	------------------

considered a responsive Bid?

COMMONWEALTH RESPONSE #6:

It is preferred that a Manufacturer shall have at least one (1) Equipment Dealer representative in the State in order to perform sales and warranty work on the equipment as well as to provide technical information to the Agency as required. If there are numerous locations, the ordering agency may select whichever Equipment Dealer they choose. This may be based on past performance, item availability, location proximity, etc.

VENDOR QUESTION #7:

When can a Manufacturer increase their prices?

COMMONWEALTH RESPONSE #7:

Reference Section 33 - Basis of Price Revisions, Manufacturers may not raise their prices for the first six (6) months of the contract. A price increase may be requested at the time that the Master Agreement is renewed. For instance, assume that these Master Agreements go into effect October 1, 2009, with an expiration date of September 30, 2010. Prices shall remain unchanged (no price increases) during the first six (6) period. At the end of this time period and / or at the end of the Renewal period and the renewal option is exercised (approximately October 2010), Manufacturers may request a price increase (accompanied with industry documentation as to the percentage / amount increase.) Due to the varied times that Manufacturers may make their internal price changes within their product categories, the actual increase may not be known or take effect until January 2010. In this case, the Manufacturer / Authorized Vendor would add a statement that would be added to the Renewal Agreement Form stating that the Vendor would like to renew and would also like to request a price increase to be considered in approximately January 2010. If the Commonwealth approves the price increase, another Modification would be completed in January 2010 to incorporate the new prices.

Again, the percentage discount shall remain the same. The Vendor may increase the List price from \$2,000 to \$2,100 but the 10% discount percentage remains the same. Where the State paid \$1,800 for the item, it would then pay \$1,890 after the price increase is in effect.

VENDOR QUESTION #8:

Are all equipment items ordered off of the Master Agreement(s) to be shipped to

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 17 of 34
------------	--------------------------------	---	-------------------------

Frankfort, Kentucky?

COMMONWEALTH RESPONSE #8:

Not in all cases. Shipping information will be provided on the Delivery Order or Purchase Order. The vast majority of those ordered by the FAC Division of Fleet Management, KYTC Division of Equipment, and the Kentucky State Police (KSP) will be delivered to Frankfort, KY. Other delivery locations will be as specified by the ordering Agency / Local Government.

VENDOR QUESTION #9:

Where do the Purchase Orders (or Delivery Orders) go? Do they get faxed to the Manufacturer? Do they go to the local Equipment Dealer?

COMMONWEALTH RESPONSE #9:

Purchase Orders / Delivery Orders will be faxed / mailed to the address in the RFB / Solicitation's Vendor address box on the front page of the RFB / Solicitation. This address is the same as that of the Master Agreement award. The Manufacturer may pass this order information on to their local Dealer. It is also acceptable that the Manufacturer delegates the authority to their Equipment Dealers to receive equipment orders (paper or electronic). This should cut down on the amount of paperwork.

VENDOR QUESTION #10:

When obtaining our Independent Dealer information, are they required to give us a VC or VS (Vendor Customer # from the VSS website) number?

COMMONWEALTH RESPONSE # 10:

Yes. This is due to the fact that the VC / VS number is needed in order to load them into the Master Agreement as an Authorized Dealer of the Manufacturer (Authorized Secondary Vendor to our system). If the Dealer is already registered they MAY have this number in their files. If not, they should contact the Finance Customer Resource Center (CRC) at (502) 564-9641 or toll-free 877-973-4357 or email Finance.CRCGroup@ky.gov and request that they look up their VC / VS number in the database. The Dealer may also access the web registration site to retrieve their VC number as well. They should go to <https://emars.ky.gov/online/vss/Advantage> and log in to access their Dealer information.

VENDOR QUESTION # 11 -

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 18 of 34
------------	--------------------------------	---	-------------------------

When submitting pricing, are we restricted to discounts off of our government base price book only, or can we add greater individual percentage discounts for specific equipment items as well? Or, can the Manufacturer provide a greater percentage discount on more popular equipment items, in addition to their standard percentage discount off of the Equipment catalog?

COMMONWEALTH RESPONSE # 11 -

A Manufacturer may list any discount percentage that they desire. Should the decision be made that a particular model / item has a greater percentage discount (further reduced price) than other items in that same group, this is acceptable. For example, vehicle security partitions may have a generic 10% discount but the most popular partition model - Mighty Mike - may have a 15% discount. These percentage discounts should be reflected on the Manufacturers Catalog of Line Items referred to in the Terms and Conditions Section 15, Item #4 - Line Item Catalog.

Should the Vendor only offer this increased discount percentage for limited time periods, then the 10% would be on the Catalog of Line Items and the Vendor could increase the percentage discounting when preparing a quote or invoice for the ordering office. Again, the Sate agencies may pay less , but not more than, what is listed on the Catalog of Line Items.

VENDOR QUESTION # 12 -

From the RFB Terms, Section 16, Item #11.

The Manufacturer cannot be responsible for sub-Vendors (Dealers) EEO documentation. Can this requirement be waived?

COMMONWEALTH RESPONSE # 12 -

No, the requirement cannot be waived. Vendors are responsible for reporting subcontracts that exceed \$500,000 on the Subcontractor Report Form. Vendors are also responsible for compiling and submitting the documentation for subcontractors. The FAC Office of EEO/CC does not have the resources to compile or to track this information on behalf of any Vendor.

As additional clarification, Item #11 from Section 14 - EEO Requirements is highlighted below with key information.

11) Vendors must advise each sub-Vendor with a subcontract of more than

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 19 of 34
------------	--------------------------------	---	-------------------------

\$500,000 - of the sub-Vendor's obligation to comply with the Kentucky EEO Act. Further, Vendors are responsible for compiling EEO documentation from their sub-Vendors and submitting the documentation to the Finance and Administration Cabinet, Office of EEO and Contract Compliance (EEO/CC). (Note: contracts below the second tier are exempt from EEO reporting.)

In summary, when the Manufacturer receives the Master Agreement, they will have their authorized local Equipment Dealers operating under them on the Master Agreement making the sales & deliveries.

By what the EEO guidelines are, if a Dealer, Mike's Mighty Partitions, has sales of \$300,000 they would be exempt. If Mike's Mighty Partitions sells \$600,000 then they'd have to complete the EEO Report. This \$500,000 equipment sales figure is for the **LIFE** of the Master Agreement (not per year). **Once a Dealer sells \$500,000 in equipment, they would then be subject to the reporting.**

The first tier is the Vendor that is awarded the Master Agreement; the second tier is the subcontractor or sub-Vendor. From the above example, the first tier would be the Manufacturer and the second tier would be Mike's Mighty partition.

For additional clarification please contact Ms, Yvette Smith, Executive Director of the EEO/CC in the EEO/CC office at (502) 564-2874. Please refer also to KAR 45.560 [4] (<http://162.114.4.13/KRS/045-00/560.PDF>) for additional information.

VENDOR QUESTION # 13:

Can you tell what (electronic Catalog) template I should be using to provide our pricing on? I still have the old version, columns A through J, but I did see a newer version on your website, with columns A through T.

COMMONWEALTH RESPONSE # 13:

The latest electronic Catalog Line Item template is the version with columns A through T. (NOTE - This template is available at the following website: <http://finance.ky.gov/business/eprocurement/vendorcatalogtemplate.htm>.) The only columns the Vendor needs to complete are those mentioned in the RFB Terms Section 15, item #4 - Line Item Catalog. Columns A though K are all that our system currently requires.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 20 of 34
------------	--------------------------------	---	--------------------------------

VENDOR QUESTION # 14:

What is the difference between the Excel spreadsheet template and the Bidder Information Sheet? I know that the Excel spreadsheet template will list all of our available products and show the percentage discount of the equipment, but if the Bidder Information Sheet is something different, do we show the same information on it that is on the Excel sheet, or is this just supposed to show the discounts we are offering off of our Base Price Book?

COMMONWEALTH RESPONSE # 14:

Manufacturers should provide the Bidder Information Sheet with their Bid Response. This information is basically columns B/G, J and K of the Catalog Line Item spreadsheet (see Item #4 above). The Bidder Information Sheet may be quite brief, similar to if everything receives the same percentage discount:

LINE ITEM #1 - ALL MODELS OF (MANUFACTURER'S NAME) VEHICLE SECURITY PARTITIONS, ATTACHMENTS, OPTIONS, ACCESSORIES, REPAIR PARTS, AND TRAINING. INCLUDES ALL CURRENT AND FUTURE MODELS THAT FALL INTO THIS MODEL AND PRICE CATEGORY. CONTRACT PRICE IS DISCOUNTED XX% FROM LIST PRICE. FREIGHT AND SET-UP MAY APPLY TO CERTAIN MODELS. CONTACT THE MANUFACTURER / VENDOR FOR ANY FURTHER INCREASED QUANTITY DISCOUNTING SHOULD IT BE AVAILABLE FOR LARGER ORDERS. MANUFACTURER'S WEBSITE - www.mfrbackhoe.com

Or if different percentages will apply:

LINE ITEM #1 - ALL MODELS OF (MANUFACTURER'S NAME) VEHICLE SECURITY PARTITIONS, ATTACHMENTS, OPTIONS, ACCESSORIES, REPAIR PARTS, AND TRAINING. INCLUDES ALL CURRENT AND FUTURE MODELS THAT FALL INTO THIS MODEL AND PRICE CATEGORY. CONTRACT PRICE IS **DISCOUNTED XX% FROM LIST PRICE**. FREIGHT AND SET-UP MAY APPLY TO CERTAIN MODELS. CONTACT THE MANUFACTURER / VENDOR FOR ANY FURTHER INCREASED QUANTITY DISCOUNTING SHOULD IT BE AVAILABLE FOR LARGER ORDERS. MANUFACTURER'S WEBSITE - www.mfrbackhoe.com

LINE ITEM #2 - ALL MODELS OF (MANUFACTURER'S NAME) VEHICLE TRUNK ORGANIZERS, ATTACHMENTS, OPTIONS, ACCESSORIES, REPAIR PARTS, AND TRAINING. INCLUDES ALL CURRENT AND FUTURE MODELS

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 21 of 34
------------	--------------------------------	---	-------------------------

THAT FALL INTO THIS MODEL AND PRICE CATEGORY. CONTRACT PRICE IS **DISCOUNTED YY% FROM LIST PRICE.** FREIGHT AND SET-UP MAY APPLY TO CERTAIN MODELS. CONTACT THE MANUFACTURER / VENDOR FOR ANY FURTHER INCREASED QUANTITY DISCOUNTING SHOULD IT BE AVAILABLE FOR LARGER ORDERS. MANUFACTURER'S WEBSITE - www.mfrbackhoe.com

VENDOR QUESTION # 15:

On the Excel spreadsheet, you have one column asking for the Supplier Part number and one column asking for the Manufacturer Part Number. Since our part numbers are the same, do we list them in both columns or just list them once in either column?

COMMONWEALTH RESPONSE # 15:

The Supplier Part number (Column B) is that number that applies to that group of items, i.e. Mike's Vehicle Security Partitions. It is more of a category name than an actual part number. The Supplier Name (Column C) would be Mike's Partitions and the Manufacturer Name (Column D) could be ACME MFG COMPANY. The Manufacturer Part Number (Column E) can be left blank.

VENDOR QUESTION # 16:

Can we offer different discounts for our equipment lines and brands?

COMMONWEALTH RESPONSE # 16:

Yes. Please refer to Q&A #11 above.

VENDOR QUESTION # 17:

The Bid refers to a 1% per day penalty fee for the late delivery of items.

We would respectfully request that either this be removed, or modified to avoid the late fee being charged to the Manufacturer.

Our reasoning is that since our independently owned Dealers and Distributors will be filling the orders, we will not know when they are not going to be able to deliver the equipment on time, for that order.

If the 1% fee can not be removed from the Bid, is it possible that it be modified to say that if the needed items can not be delivered on time by the Dealer that they can substitute another item

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 22 of 34
------------	--------------------------------	---	-------------------------

at a price equal to or less then the amount of the item originally ordered. Or, if the needed item can not be delivered on time that the Commonwealth will have the right to obtain the needed item elsewhere and that if the cost is higher then it would have been with the original Manufacturer then that Manufacturer will be required to pay the difference, for that order.

This way the Commonwealth gets their equipment but the Manufacturer is only penalized for the difference in pricing or what the cost was if purchased from another Manufacturer.

COMMONWEALTH RESPONSE # 17:

Yes. The language referred to is from the RFB Terms Section 15 - Equipment Specifications, #9 - Delivery Time as well as Section 16 below. The intent of the language is to aid in getting timely deliveries. The 1% late fee penalty can be waived by either of the 2 above recommendations. Should a particular equipment model (or quantity) not be available for whatever the reason(s), then the Manufacturer / Dealer shall be able to substitute an equal to, or better rated, equipment model in lieu of the model specified on the Delivery Order at the original item's discounted price. Should this not be a feasible option, then the Commonwealth could purchase a like item from another Manufacturer / Dealer and the difference in the net price could be billed back to the original Manufacturer.

Another solution would be that the Manufacturer / Vendor contact the ordering Agency and explain the situation to them and ask that they be allowed extra time in order to fulfill the delivery.

Note - That part of Section 15, Item #9 - Delivery Time, where the Manufacturer is to enter the estimated number of days for delivery can be whatever number of days that the Manufacturer chooses to enter. Again, it is just an ESTIMATE at this point in time as to what a normal delivery time might be.

VENDOR QUESTION # 18:

Referencing Section 15, Item #3 - Authorized Equipment Dealer Listing.

The State is asking for an e-mail address for each Equipment Dealer. This information is not readily accessible at this time. Can we supply the listing without it?

COMMONWEALTH RESPONSE # 18:

Yes, this is acceptable. The reason for asking for these email addresses is so that an ordering agency may contact the Dealer by email. Contact by phone or fax is also acceptable. In the near future, this Authorized Equipment Dealer Listing will be placed

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 23 of 34
------------	--------------------------------	---	-------------------------

on the OPS website so that Agencies / Local Governments can view which Equipment Dealer is closest to them and then contact them for model information.

VENDOR QUESTION # 19:

Referencing Section 15, Item #9 - Delivery Time.

The State is asking that the Vendor agrees to a 1% per day penalty for late delivery. We cannot agree to this condition.

In most cases, all orders will be delivered at the time of order or within a normal delivery period. But there are times when certain models may become back-ordered and the noted delivery days on the Catalog may be exceeded. In the case of back-orders, we will do everything in our power to deliver the equipment at the earliest time possible. Or we ask, that if the Dealer advises the Agency that the item will not be delivered within the delivery days that is on the Catalog excel spreadsheet, will the State allow for the late delivery and not charge the penalty?

COMMONWEALTH RESPONSE # 19:

Please refer to Q&A #17 above. Vendors should enter in Column K that number of days that should be adequate to cover the majority of equipment deliveries. Those exceptions may be dealt with on a case by case basis. Keep in mind that if Manufacturer A has a severe back-order or slow delivery process, the Agency most likely will have the option to purchase a different Manufacturer's equivalent model that is more readily available.

The State is asking for a **REQUESTED** Delivery date knowing that in all cases or circumstances that this date may not be able to be met.

The Commonwealth does not have the intent to unfairly penalize a Manufacturer / Dealer for those instances of longer delivery times. In return, the Commonwealth would like the Manufacturer / Dealer to work with the ordering Agency / Local Government and explain the situation and what is being done to resolve it. The 1% penalty is a last resort method.

Section 9

Equipment Delivery

Unless otherwise specified in this Master Agreement, **Delivery of the Partitions, Organizers, Equipment Trays, and Racks equipment items is REQUESTED within thirty (30) calendar days from the receipt of the Delivery Order after award of the Master Agreement.** In some cases, staggered delivery dates may be requested.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 24 of 34
------------	--------------------------------	---	--------------------------------

When the Goods or Equipment are not made as provided in this Master Agreement, the Office of Procurement Services reserves the right to:

a) purchase the item or good on the open market, with any cost in excess of the contract price paid by the Vendor. Failure of the Vendor to meet contract delivery dates may also be cause for cancellation, removal from eligibility for future contracts, or both, or,

b) the Vendor agrees that when delivery and / or performance are not made within the contracted due date that one percent (1%) per calendar day will be deducted from the Vendor's invoice for each calendar day the Vendor fails to meet the contracted delivery and performance date.

The Commonwealth reserves the right to determine which of the above options is in its best interests.

Delivery shall be between the hours of 8:00 AM and 4:30 PM (prevailing time) weekdays only (Saturday, Sunday, and State Holidays excluded).

Note: No delivery or shipment shall be made against this Master Agreement unless the Vendor has received an official Delivery Order / Purchase Order from an Agency or the proper document from a Local Government, School, or University.

Section 10

Equipment / Condition

Unless otherwise indicated in this Master Agreement, it is understood and agreed that any item offered or shipped on this Master Agreement shall be new and be in good working condition. Any unit failing to meet the foregoing requirements shall be returned to the Vendor, at their expense, and replaced with a new unit.

Section 11

Inspection

All equipment, supplies, and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event equipment, supplies, or services are defective in material or workmanship or otherwise not in conformity with specified specifications or requirements the Commonwealth shall have the right to reject the items or services or require acceptable correction at the Vendor's expense.

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 25 of 34
------------	--------------------------------	---	--------------------------------

Section 12

Equipment Acceptance

Acceptance of the supplies, equipment, or item at the point and time of delivery shall not be interpreted as an indication by the State that the equipment or item received is acceptable. Final acceptance and authorization for payment shall only be given after a thorough inspection has determined that the supplies, equipment, or item is in accordance with the Specifications.

The Vendor is advised that in the event that the delivered supplies, equipment, or item differs in any respect from the Specifications, then, and in that event, payment to the Vendor will be withheld until such time as the Vendor takes necessary corrective action. The Office of Procurement Services (OPS) may at its discretion refuse to accept delivery of the supplies, equipment, or item in which case the supplies, equipment, or item shall remain the property of the Vendor and the State shall not be liable for payment of any nature. Should a representative of the State agree to accept any equipment with items of the equipment or parts missing on the condition that said missing items will be furnished by the Vendor, then, and in that event, the Vendor is to understand that payment(s) for the service or equipment will be withheld until the missing items are delivered and / or installed.

Section 13

Payment

Payment shall be made after delivery and acceptance of the supplies or equipment. Partial payments are authorized when multiple items are ordered at one time or under other circumstances when deemed necessary. This is due to possible different number of delivery days.

Under Kentucky Revised Statute (KRS) 45.454 - Penalty for Late Payment, it states - 'An interest penalty of one percent (1%) of any amount approved and unpaid shall be added to the amount approved for each month or fraction thereof after the thirty (30) working days which followed receipt of the goods or services or Vendor's invoice by a purchasing agency.' **Payment will be made upon delivery and acceptance of the product.** This time may be different than when an invoice is received. For example, a delivery is ordered on February 1st with delivery scheduled for May 1st. An invoice is mailed and received on Feb 15th stating the 30 days for payment. The delivery is received and accepted at the Agency location on May 1st. Agency payment target date is June 15th (30 working days after receipt of equipment) and not April 2nd (30 working days after the invoice was received.) Should the agency not pay for the delivery until June 30th, the Agency would be liable for the 1% late payment penalty fee. The key date in this issue is the latter of the receipt date of the invoice or the receipt and

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 26 of 34
------------	--------------------------------	---	--------------------------------

acceptance date of the equipment. The 30 working day payment window starts on the latter of these two dates.

Example 1 - The equipment is received on May 1st the invoice is received on May 15th, the due date for payment will be 30 working days from the date that the invoice was received.

Example 2 - The invoice is received on May 1st, part of the order is received on May 15th, the remainder of the order is not received until May 30th, and the due date for payment of the invoice is 30 working days from May 30th.

Example 3 - If any piece of equipment is not correct or if the invoice is not correct, the 30 working days should not start until everything is correct and acceptable.

Section 14

Tax Exempt Status

The Vendor should not include Federal Excise Tax, Kentucky Sales, or Use Tax in pricing or invoicing once an order has been received and invoiced.

Section 15

Post Contract Agreements

This Master Agreement shall constitute the entire agreement between the State and the Vendor. Unless contractually provided, State agencies utilizing this Master Agreement will not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of this Master Agreement. Any such documents so obtained will be non-binding on the State and agents of the State and will be cause for breach of contract.

Section 16

Equipment / New Technology

All products or equipment must be new and / or a current model. The Commonwealth recognizes the rapid advancement of technology. If the Vendor can provide new equipment of advanced technology after the award of the Master Agreement, the Commonwealth and the Vendor may choose by mutual agreement to install such equipment.

Section 17

Addition or Deletion of Items or Services to the Master Agreement Catalog

The Office of Procurement Services (OPS) reserves the right to add new and similar items, with the consent of the Vendor, to this Master Agreement. The Office of

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 27 of 34
------------	-------------------------	--	------------------

Procurement Services (OPS) will issue a Master Agreement Modification to effect this change.

Section 18

Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the Prices established by this Master Agreement shall remain firm for the contract period subject to the following:

A: Price Increases: **A price increase will not be allowed during the first six (6) months of the Master Agreement. Only two (2) Price increases will be allowed during the Master Agreement period.** The Price increase must be based on industry wide price changes. The Vendor must request in writing a Price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the Price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the Price increase is denied, the Vendor may withdraw from the Master Agreement without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the Vendor must continue service, at the Master Agreement prices, until a new Master Agreement can be established (usually within ninety (90) days).

B: Price Decreases: The Master Agreement price shall be reduced to reflect any industry wide price decreases. The Vendor is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.

C: Extended Contract Periods: If the Master Agreement provides for an optional renewal period, a price adjustment may be granted at the time the Master Agreement is renewed, subject to price increase justification as required in Paragraph A 'Price Increases' as stated above.

Section 19

Quantity Basis of Contract - Estimated Quantities

Any and all quantities mentioned in Request For Bid (RFB) / Solicitation RFB 758 1000000125 are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy only that quantity needed by its agencies during the term of this Master Agreement. Requirements may exceed the quantities shown and the Vendor shall be required to furnish all requirements shown on Delivery Orders or Purchase Orders dated during the life of the contract.

Section 20

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 28 of 34
------------	--------------------------------	---	--------------------------------

Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the Agency. The Commonwealth of Kentucky reserves the right to contract for large requirements on the open market.

Section 21

Minimum Order Option

Subject to any specific limitations elsewhere in this Master Agreement, when a State agency requires supplies or services covered by any Master Agreement in a total amount of less than \$1,000, the agency shall not be obligated to place such order under the Master Agreement and retains the option to purchase by other means.

Section 22

Funding-Out Provision

Other provisions of a follow-on Master Agreement not with standing, the Vendor agrees, if funds are not appropriated to the Agency or are not otherwise available for the purpose of making payments hereunder, then the Agency shall be authorized, upon sixty (60) calendar days written notice to the Vendor, to terminate this agreement without obligation for the payment of any cancellation or termination charges which may be fixed by the agreement without any other obligation or liability hereunder.

Section 23

Cancellation Clause - 30 Days Notice

The Commonwealth may cancel this Master Agreement by giving written notice thirty (30) calendar days prior to effective cancellation date.

Section 24

Termination of Contracts

The Commonwealth reserves the right to terminate contracts for convenience when requirements under the contract no longer exist. A written notice will be given to the Vendor at least thirty (30) calendar days prior to such proposed termination date.

Section 25

Service Performance

All services performed under this Master Agreement shall be in accordance with the terms and provisions of the Master Agreement. It will be the Agency's responsibility to ensure that such services rendered are performed and are acceptable.

Major deviations of services performed will not be made without the written approval of the Office of Procurement Services (OPS). Problems, which rise

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 29 of 34
------------	--------------------------------	---	--------------------------------

under any aspect of performance, should first be resolved between the Vendor and the Agency. Either party should refer, in writing, any such problems and / or disagreements that cannot be resolved to the Office of Procurement Services (OPS) for settlement.

Section 26

Recycle Requirements

The Vendor is required to comply with the Recycle Requirements for the purchase of goods, supplies, equipment, materials and printing with a minimum recycled content to the extent practicable per 200 KAR 5:330. This regulation can be viewed on the Internet at <http://www.lrc.state.ky.us/kar/200/005/330.htm>.

Section 27

Advertising

Each unit shall be entirely free of any and all advertising attachments of the Vendor such as decals, clips, or any other devices bearing Vendor's name or logo.

Manufacturer provided safety, operating instruction, instructional, maintenance, or informational labels are allowed on the equipment.

Section 28

Agreement between Parties

By submitting a response to Request For Bid (RFB) 758 1000000125, the Vendor acknowledges and agrees to be bound by the terms and conditions of this Master Agreement.

The Vendor agrees that this Master Agreement is the complete and exclusive statement of the agreement between the parties, which supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Master Agreement. It is further agreed between the parties, that any valid modification of contractual agreement must be formalized by issuance of a Master Agreement Modification from the Office of Procurement Services (OPS).

Section 29

Governmental Restrictions

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this Master Agreement prior to delivery, it shall be the responsibility of the Vendor to notify the Office of Procurement Services in writing, indicating the specific regulation which requires such alterations. The Commonwealth reserves the right to accept any

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S CREEN - ADAMSON(RFB 758 1*125)	Page 30 of 34
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such alterations, including any subsequent price adjustments, or to cancel the contract.

Section 30

Federal Tax Exempt Purchases by the Commonwealth of Kentucky

Master Agreement / Contracts Direct With Manufacturer: In the event a Manufacturer bids direct and is awarded a Master Agreement / Contract, the Office of Procurement Services shall request the Vendor to furnish evidence of registration with the U.S. Internal Revenue Service. This registration shall be in accordance with the 'Temporary Rules, 1958 Excise Tax Act'. After such registration, individual Excise Tax Exemption Certificates are not necessary on each individual order issued against the Master Agreement / Contract by the Office of Procurement Services. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Master Agreement / Contract With Other Than Manufacturer: If the Vendor is other than the Manufacturer, the Office of Procurement Services will furnish a Tax Exemption Certificate with each individual order issued against this Master Agreement / Contract. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Section 31

ALL PROVISIONS OF REQUEST FOR BID (RFB) 758 1000000125 SHALL BE PART OF THIS MASTER AGREEMENT.

PREAMBLE

To the extent that this contract or grant involves the use of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 ("ARRA") funds, the following terms and conditions apply.

For the purposes of applying these terms and conditions, the following definitions apply:

- I. A "prime recipient" is a non-Federal entity that receives Recovery Act funding as Federal awards in the form of grants, loans, or cooperative agreements directly from the Federal government.*
- II. A "subrecipient" is a non-Federal entity that expends Federal awards received from another entity to carry out a Federal program but does not include an individual who is a beneficiary of such a program.*
- III. A "vendor" is defined as a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. Prime recipients or subrecipients may purchase goods or services needed to carry out the project or program from vendors. Vendors are not awarded funds by the same means as*

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 31 of 34
------------	--------------------------------	---	--------------------------------

subrecipients and are not subject to the terms and conditions of the Federal financial assistance award.

The vendor or subrecipient specifically agrees to comply with each of the terms and conditions contained herein.

The vendor or subrecipient understand and acknowledges that the federal stimulus process is evolving and that new requirements for ARRA compliance may still be forthcoming from federal government and the Commonwealth of Kentucky. Accordingly, the subrecipient/vendor specifically agrees that both it and any subgrantees/subcontractors will comply with all such requirements during the contract period.

AVAILABILITY OF FUNDING

Vendor/subrecipient agrees that programs supported with temporary federal funds made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, will not be continued with state financed appropriations once the temporary federal funds are expended.

BUY AMERICAN REQUIREMENT (IF APPLICABLE)

Vendor/subrecipient agrees that in accordance with ARRA, Section 1605, neither vendor/subrecipient or its subcontractors/subgrantees will use ARRA funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The vendor/subrecipient understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

CONFLICTING REQUIREMENTS

Vendor/subrecipient agrees that, to the extent ARRA requirements conflict with Commonwealth of Kentucky requirements, the ARRA requirements shall control.

FALSE CLAIMS ACT

Vendor/subrecipient agrees that it shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subgrantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

ENFORCEABILITY

Vendor/subrecipient agrees that if the vendor/subrecipient or one of its s

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 32 of 34
------------	--------------------------------	---	-------------------------

ubcontractors/subgrantees fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the Commonwealth of Kentucky may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the Commonwealth of Kentucky under all applicable state and federal laws.

INSPECTION OF RECORDS

Vendor/subrecipient agrees that it shall permit the United States Comptroller General or his representative or the appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of vendor/subrecipient or any of its subcontractors/subgrantees regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

JOB POSTING REQUIREMENTS

Vendors/subrecipients who receive ARRA funded contracts are required to post jobs created and retained as a result of stimulus funds on the Commonwealth of Kentucky Job Bank at: <https://e3.ky.gov/>

PROHIBITION ON USE OF ARRA FUNDS

Vendor/subrecipient agrees that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

REPORTING REQUIREMENTS

Pursuant to Section 1512 of the ARRA, entities receiving ARRA funds must submit reports to the federal government no later than ten (10) calendar days after the end of each calendar quarter. This report must contain the information outlined below.

Accordingly, each subrecipient agrees to provide the Commonwealth with the following information in a timely manner:

- a. Subrecipient's DUNS number;
- b. Award number or other identifying number assigned by the prime recipient;
- c. The total amount of ARRA funds received by subrecipient during the reporting period;
- d. The amount of ARRA funds that were expended or obligated during the reporting period;
- e. A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
 - i. the name of the project or activity;
 - ii. a description of the project or activity;

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 33 of 34
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- iii. an evaluation of the completion status of the project or activity; and
- iv. an estimate of the number of jobs created and the number of jobs retained by the project or activity;
- v. the primary place of performance of the subaward, including the city, state, congressional district and country;
- vi. The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; and 2) \$25M or more in annual gross revenue from Federal awards.
- f. Any other information reasonably requested by the Commonwealth or required by state or federal law or regulation.

Each vendor must supply their DUNS number and an estimate of the number of jobs created and number of jobs retained as a result of the award of ARRA funds.

OMB Memorandum M-09-21 dated June 22, 2009 outlines the standard data elements and federal implementation guidance for use in complying with the reporting requirements under Section 1512 of the ARRA.

SEGREGATION OF FUNDS

Vendor/subrecipient agrees that it shall segregate obligations and expenditures of Recovery Act funds from other funding. No part of funds made available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be comingled with any other funds or used for a purpose other than that of making payments for costs allowable under the ARRA.

SUBCONTRACTOR/SUBGRANTEE REQUIREMENTS

Vendor/subrecipient agrees that it shall include these standard terms and conditions, including this requirement, in any of its subcontracts or subgrants in connection with projects funded in whole or in part with funds available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

WAGE REQUIREMENTS (IF APPLICABLE)

Vendor/subrecipient agrees that, in accordance with Section 1606 of the ARRA, both it and its subcontractors shall fully comply with this section in that, notwithstanding any other provision of law, and in a manner consistent with the other provisions of the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40 of the United States Code. The Secretary of Labor's determination regarding the prevailing wages applicable in the Commonwealth of Kentucky are located at: <http://www.gpo.gov/davisbacon/ky.html>

1000000244	Document Phase Final	Document Description FLEET SECURITY PARTITION AND S GREEN - ADAMSON(RFB 758 1*125)	Page 34 of 34
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WHISTLEBLOWER PROTECTION

Vendor/subrecipient agrees that both it and its subcontractors/subgrantees shall comply with Section 1553 of the ARRA, which prohibits all non-federal Vendor/subrecipients of ARRA funds, including the Commonwealth of Kentucky, and all contractors and grantees of the Commonwealth of Kentucky, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. Vendor/subrecipient agrees that it and its subcontractors/subgrantees shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.